

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
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Second Regular Session
2008

CHAPTER 230

SENATE BILL 1223

AN ACT

AMENDING SECTIONS 20-1691 AND 20-1691.03, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 6, ARTICLE 15, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-1691.12; RELATING TO INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 20-1691, Arizona Revised Statutes, is amended to
3 read:
4 20-1691. Definitions
5 In this article, unless the context otherwise requires:
6 1. "Applicant" means:
7 (a) In the case of an individual long-term care insurance policy, the
8 person who seeks to contract for such benefits.
9 (b) In the case of a group long-term care insurance policy, the
10 proposed certificate holder.
11 2. "Certificate" means a certificate issued under a group long-term
12 care insurance policy, which group policy has been delivered or issued for
13 delivery in this state.
14 3. "Chronically ill individual" means any individual who has been
15 certified by a licensed health care practitioner as meeting the definition of
16 illness established by title III of the health insurance portability and
17 accountability act of 1996 (P.L. 104-191).
18 4. "Director" means the director of the department of insurance.
19 5. "Group" means any of the following:
20 (a) One or more employers or labor organizations, or a trust or the
21 trustees of a fund established by one or more employers or labor
22 organizations for employees or former employees or members or former members
23 of the labor organization.
24 (b) A professional, trade or occupational association for its members
25 or former or retired members if the association is composed of individuals
26 who were all actively engaged in the same profession, trade or occupation and
27 the association has been maintained in good faith for purposes other than
28 obtaining insurance.
29 (c) An association or a trust or the trustees of a fund established,
30 created or maintained for the benefit of members of one or more associations,
31 subject to compliance with the requirements of section 20-1691.04,
32 subsection A.
33 (d) A group other than that described in subdivision (a), (b) or (c)
34 of this paragraph if a policy issued to the group satisfies the criteria
35 under section 20-1691.04, subsection C.
36 6. "Group long-term care insurance" means a long-term care insurance
37 policy that is delivered or issued for delivery in this state to a group.
38 7. "Licensed health care practitioner" means any physician licensed
39 pursuant to title 32, chapter 13 or 17, any registered nurse or registered
40 nurse practitioner licensed pursuant to title 32, chapter 15 or any other
41 individual who meets the requirements prescribed by the United States
42 secretary of the treasury.
43 8. "Long-term care insurance" means an individual or group insurance
44 policy or rider issued by insurers, fraternal benefit societies, nonprofit
45 health, hospital and medical service corporations, prepaid health plans,
46 health care services organizations or any similar organization and

1 advertised, marketed, offered or designed to provide coverage for each
2 covered person on an expense-incurred, indemnity, prepaid or other basis for
3 one or more necessary or medically necessary diagnostic, preventive,
4 therapeutic, rehabilitative, maintenance, personal or custodial care services
5 provided in a setting other than an acute care unit of a hospital. Long-term
6 care insurance includes group and individual annuities, life insurance
7 policies or riders that provide or supplement long-term care insurance and
8 qualified long-term care insurance contracts. Long-term care insurance also
9 includes a policy or rider that provides for payment of benefits based on
10 cognitive impairment or loss of functional capacity. Long-term care
11 insurance does not include any insurance policy that is offered primarily to
12 provide basic medicare supplement coverage, basic hospital expense coverage,
13 basic medical and surgical expense coverage, major medical expense coverage,
14 disability income or related asset protection coverage, hospital confinement
15 indemnity coverage, accident only coverage, specified disease coverage,
16 specified accident coverage or limited benefit health coverage or riders to
17 the insurance policy or a life insurance policy that accelerates the death
18 benefit for terminal illness, medical conditions requiring extraordinary
19 medical intervention or permanent institutional confinement, that provides
20 the option of a lump sum payment for those benefits and in which the benefits
21 or the eligibility for the benefits is not conditioned on the receipt of
22 long-term care.

23 9. "LONG-TERM CARE PARTNERSHIP PROGRAM" MEANS A QUALIFIED STATE
24 LONG-TERM CARE INSURANCE PARTNERSHIP AS DEFINED IN SECTION 1917(b) OF THE
25 SOCIAL SECURITY ACT (42 UNITED STATES CODE SECTION 1396P).

26 ~~9.~~ 10. "Maintenance or personal care services" means any care the
27 primary purpose of which is to provide assistance needed with any disability
28 that results in the individual being a chronically ill individual, including
29 the protection from threats to health and safety due to severe cognitive
30 impairment.

31 ~~10.~~ 11. "Policy" means an individual or group policy, contract,
32 subscriber agreement, rider or endorsement delivered or issued for delivery
33 in this state by an insurer, fraternal benefit society, nonprofit health,
34 hospital or medical service corporation, prepaid health plan or health care
35 services organization or any similar organization.

36 ~~11.~~ 12. "Preexisting condition" means a condition for which medical
37 advice or treatment was recommended by or received from a health care
38 services provider within six months before the effective date of coverage of
39 an insured person.

40 ~~12.~~ 13. "Qualified long-term care insurance contract" means:

41 (a) Any insurance policy that meets the requirements of section
42 7702B(b) of the internal revenue code of 1986, as amended.

43 (b) The portion of a life insurance policy that provides long-term care
44 insurance coverage by rider or as a part of the policy and that satisfies the
45 requirements of section 7702B(b) and (e) of the internal revenue code of
46 1986, as amended.

1 ~~13-~~ 14. "Qualified long-term care services" means necessary
2 diagnostic, preventive, therapeutic, curing, treating, mitigating and
3 rehabilitative services and maintenance ~~for~~ OR personal care services to
4 which the insured is eligible under a qualified long-term care insurance
5 contract and that are provided pursuant to a plan of care prescribed by a
6 licensed health care practitioner.

7 ~~14-~~ 15. "Severe cognitive impairment" means an impairment determined
8 by a licensed health care practitioner as meeting the definition of an
9 impairment as established by title III of the health insurance portability
10 and accountability act of 1996 (P.L. 104-191).

11 Sec. 2. Section 20-1691.03, Arizona Revised Statutes, is amended to
12 read:

13 20-1691.03. Limitations of long-term care insurance policies

14 A. No insurer may cancel, fail to renew or otherwise terminate a
15 long-term care insurance policy solely on the grounds of the age or the
16 deterioration of the mental or physical health of the insured individual or
17 certificate holder.

18 B. No long-term care insurance policy may contain a provision
19 establishing any new waiting period if existing coverage is converted to or
20 replaced by a new or other form within the same company, except with respect
21 to an increase in benefits voluntarily selected by the insured individual or
22 group policyholder.

23 C. A long-term care insurance policy shall provide coverage for at
24 least twenty-four consecutive months for each covered person.

25 D. No preexisting condition limitation period in a long-term care
26 insurance policy or certificate may exceed the following:

27 1. If not approved under paragraph ~~3-~~ 2, six months after the
28 effective date of coverage of an insured ~~who is sixty-five years of age or~~
29 ~~older on the effective date of coverage~~ FOR WHOM MEDICAL ADVICE OR TREATMENT
30 WAS RECOMMENDED BY, OR RECEIVED FROM, A HEALTH CARE SERVICES PROVIDER.

31 ~~2. Twenty-four months after the effective date of coverage of an~~
32 ~~insured who is under sixty-five years of age on the effective date of~~
33 ~~coverage.~~

34 ~~3-~~ 2. A period of time set by the director after the effective date
35 of coverage of an insured who is a member of a designated group for which the
36 director has found that a different limitation period is justified because
37 the group is specially limited by age, group categories or other specific
38 policy provisions and that the different limitation period will be a benefit
39 to the certificate holders.

40 E. No long-term care insurance policy or certificate may use a
41 definition of preexisting condition which is more restrictive than the
42 definition prescribed in this article.

43 F. A long-term care insurance policy shall not exclude or use waivers
44 or riders of any kind to exclude, limit or reduce coverage or benefits for
45 specifically named or described preexisting diseases or physical conditions
46 beyond the periods allowed under subsection D.

1 G. The definition of preexisting condition does not prohibit an
2 insurer from using an application form designed to elicit the complete health
3 history of an applicant and, on the basis of the answers on that application,
4 from underwriting in accordance with that insurer's established underwriting
5 standards.

6 H. No long-term care insurance policy or certificate issued on or
7 after July 1, 1990, may provide coverage for skilled nursing care only or
8 provide significantly more coverage for skilled care in a facility than
9 coverage for lower levels of care, or coverage that conditions eligibility
10 for benefits for levels of care on the receipt of higher levels of care. In
11 evaluating the requirements of this subsection, the director shall consider
12 the amount of coverage provided based on aggregate days of care covered for
13 lower levels of care when compared to days of care covered for skilled care.

14 I. A LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE, OTHER THAN A
15 POLICY OR CERTIFICATE THAT IS ISSUED TO A GROUP, MAY NOT EXCLUDE COVERAGE FOR
16 A LOSS OR CONFINEMENT THAT IS THE RESULT OF A PREEXISTING CONDITION UNLESS
17 THE LOSS OR CONFINEMENT BEGINS WITHIN SIX MONTHS FOLLOWING THE EFFECTIVE DATE
18 OF COVERAGE OF AN INSURED PERSON.

19 Sec. 3. Title 20, chapter 6, article 15, Arizona Revised Statutes, is
20 amended by adding section 20-1691.12, to read:

21 20-1691.12. Insurance producer training course requirements

22 A. AN INDIVIDUAL MAY NOT SELL, SOLICIT OR NEGOTIATE LONG-TERM CARE
23 INSURANCE UNLESS THE INDIVIDUAL:

24 1. IS LICENSED AS AN INSURANCE PRODUCER FOR ACCIDENT AND HEALTH OR
25 SICKNESS.

26 2. HAS COMPLETED EIGHT HOURS OF INITIAL LONG-TERM CARE TRAINING.

27 3. HAS COMPLETED FOUR HOURS OF LONG-TERM CARE TRAINING IN EACH
28 TWO-YEAR PERIOD SUCCEEDING JULY 1, 2009, AFTER THE TWO-YEAR PERIOD WITHIN
29 WHICH THE INDIVIDUAL COMPLETED THE INITIAL LONG-TERM CARE TRAINING.

30 B. AN INDIVIDUAL MAY SATISFY THE TRAINING REQUIREMENT PRESCRIBED IN
31 SUBSECTION A OF THIS SECTION ONLY BY COMPLETING AN APPROVED CONTINUING
32 EDUCATION COURSE THAT IS OFFERED BY AN APPROVED PROVIDER PURSUANT TO CHAPTER
33 18 OF THIS TITLE. THE COMPLETION OF SUCH A COURSE MAY ALSO SATISFY THE
34 INSURANCE CONTINUING EDUCATION REQUIREMENT PRESCRIBED BY CHAPTER 18 OF THIS
35 TITLE.

36 C. THE TRAINING COURSES REQUIRED BY SUBSECTION A OF THIS SECTION
37 CONSIST OF TOPICS THAT ARE RELATED TO LONG-TERM CARE INSURANCE, LONG-TERM
38 CARE SERVICES AND, IF APPLICABLE, QUALIFIED STATE LONG-TERM CARE INSURANCE
39 PARTNERSHIP PROGRAMS INCLUDING, AS CONSISTENT WITH THE MINIMUM STANDARDS THAT
40 APPLY TO APPROVED CONTINUING EDUCATION COURSES DEVELOPED BY THE CONTINUING
41 EDUCATION REVIEW COMMITTEE PURSUANT TO SECTION 20-2905:

42 1. STATE AND FEDERAL RULES AND REQUIREMENTS AND THE RELATIONSHIP
43 BETWEEN QUALIFIED STATE LONG-TERM CARE INSURANCE PARTNERSHIP PROGRAMS AND
44 OTHER PUBLIC AND PRIVATE COVERAGE OF LONG-TERM CARE SERVICES, INCLUDING
45 MEDICAID.

1 2. AVAILABLE LONG-TERM CARE SERVICES AND LONG-TERM CARE SERVICE
2 PROVIDERS.

3 3. CHANGES OR IMPROVEMENTS IN LONG-TERM CARE SERVICES OR LONG-TERM
4 CARE SERVICE PROVIDERS.

5 4. ALTERNATIVES TO THE PURCHASE OF PRIVATE LONG-TERM CARE INSURANCE.

6 5. THE EFFECT OF INFLATION ON BENEFITS AND THE IMPORTANCE OF INFLATION
7 PROTECTION.

8 6. CONSUMER SUITABILITY STANDARDS AND GUIDELINES.

9 D. AN INSURER THAT IS SUBJECT TO THIS ARTICLE SHALL OBTAIN
10 VERIFICATION THAT AN INSURANCE PRODUCER RECEIVED TRAINING THAT IS REQUIRED BY
11 SUBSECTION A OF THIS SECTION BEFORE THE INSURANCE PRODUCER IS PERMITTED TO
12 SELL, SOLICIT OR NEGOTIATE THE INSURER'S LONG-TERM CARE PRODUCTS.

13 E. AN INSURER THAT IS SUBJECT TO THIS ARTICLE SHALL MAINTAIN AND MAKE
14 AVAILABLE TO THE DIRECTOR ON REQUEST SUFFICIENT RECORDS WITH RESPECT TO THE
15 TRAINING OF INSURANCE PRODUCERS WHO SELL, SOLICIT OR NEGOTIATE THE INSURER'S
16 LONG-TERM CARE INSURANCE PRODUCTS TO ALLOW THE DEPARTMENT TO PROVIDE
17 ASSURANCE TO THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION
18 THAT THE INSURANCE PRODUCERS HAVE RECEIVED THE TRAINING PRESCRIBED BY THIS
19 SECTION.

20 F. A NONRESIDENT INSURANCE PRODUCER'S SATISFACTION OF A SUBSTANTIALLY
21 SIMILAR LONG-TERM CARE TRAINING REQUIREMENT OF ANY OTHER STATE SATISFIES THE
22 NONRESIDENT INSURANCE PRODUCER'S LONG-TERM CARE TRAINING REQUIREMENT AS
23 PRESCRIBED BY THIS SECTION.

24 Sec. 4. Applicability

25 Sections 20-1691 and 20-1691.03, Arizona Revised Statutes, as amended
26 by this act, apply to contracts, policies and evidences of coverage that are
27 issued from and after December 31, 2008.

28 Sec. 5. Effective date

29 Section 20-1691.12, Arizona Revised Statutes, as added by this act, is
30 effective from and after June 30, 2009.

APPROVED BY THE GOVERNOR MAY 20, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2008.